1          MR. KNOWLES-KELLETT:  Yes.  May I approach the

2    witness, Your Honor?

3          JUDGE CHACHKIN:  Yes.

4          MR. KNOWLES-KELLETT:  Bad news.  I am going to ask

5    you to use this machine, which is the machine that Bob and I

6    learned on.

7          MR. KELLER:  Can you excuse me one second?  Your

8    Honor, I said no further questions.  There is one item.

9          If we have time at the end, I would like to have

10   the opportunity for the witness.  I did not want to take

11   time sitting here when he is on the stand.  I am perfectly

12   happy if we can do this now, or I can have Mr. Kellett

13   continue with his cross-examination.

14         What I would like to do is take a short break at

15   some point to enable the witness to have the time to work

16   with those files to determine whether or not they can in

17   fact be fit onto two floppies.

18         The relevance of this, of course, is that Mr.

19   Cordaro's deposition testimony, which he did confirm

20   yesterday, was that these files were originally copied onto

21   two floppies in 1995, stored in his garage until 1997, and

22   then in 1997 he created the ZIP file.

23         JUDGE CHACHKIN:  All right.

24         MR. KELLER:  I do not believe they can fit onto

25   two files, and I want this witness to attempt to verify --

1          JUDGE CHACHKIN:  All right.

2          MR. KELLER:  -- or confirm that.  If I am wrong,

3    he will tell me.

4          JUDGE CHACHKIN:  How long would that take?

5          THE WITNESS:  Maybe five minutes, if that.

6          JUDGE CHACHKIN:  All right.  We will take a ten

7    minute break at this time.

8          (Whereupon, a short recess was taken.)

9          JUDGE CHACHKIN:  Go ahead, Mr. Keller.

10         BY MR. KELLER:

11         Q    Mr. Johnson, while we were on break did you have

12    an opportunity to investigate and make tests as to whether

13    or not -- how many files are we talking about; one, two,

14    three, four, five, six, seven, eight, nine, ten -- the ten

15    files originally contained within the DAD.ZIP archive, when

16    extracted in their unextracted form, whether those files

17    could fit onto two standard 1.4 megabyte floppy disks?

18         A    They do not.

19         Q    It is your determination that they cannot fit onto

20    the two floppy disks?

21         A    That's correct.  Only --

22         Q    And that a minimum of three floppy disks is

23    necessary to hold all of those files in their uncompressed

24    format?

25         A    Yes.

1           MR. KELLER:  No further questions, Your Honor.

2           JUDGE CHACHKIN:  Cross-examination?

3           MR. KNOWLES-KELLETT:  Your Honor, I thought that

4    the machine I brought today had Paradox on it.  It does not.

5           Does your machine happen to have Paradox on it?

6           THE WITNESS:  No.

7           MR. KNOWLES-KELLETT:  Do you have Excel?

8           THE WITNESS:  I have Excel, yes.

9           MR. SHAINIS:  What is Paradox?

10          MR. KNOWLES-KELLETT:  It is a database program.

11          MR. SHAINIS:  Okay.

12          MR. KELLER:  Are you wanting to look at the

13   contents of a certain file?

14          MR. KNOWLES-KELLETT:  Yes.

15          MR. KELLER:  Could you examine the contents with

16   Excel?

17          THE WITNESS:  Excel is a spreadsheet program.  It

18   is not a database program.

19          MR. KNOWLES-KELLETT:  Do you have Access or --

20          THE WITNESS:  No, I do not.  I will check right

21   now.

22          MR. KELLER:  But is it not true that you could

23   just examine the contents of a database file in Excel?

24          THE WITNESS:  I don't know.  It depends upon -- I

25   don't know.  Sometimes you may have to export it into a

1    Microsoft Access format to be able to read it.  We could try

2    it.

3             MR. KNOWLES-KELLETT:  Would it help you to know

4    that I believe this can easily be opened in Paradox?

5             THE WITNESS:  I do not have Paradox, and I do not

6    have Microsoft Access on this machine.

7             MR. KELLER:  Maybe I can assist here.  I have no

8    objection to this.  In fact, I would encourage it.

9             Could you just simply attempt to from Excel open

10   CUST01.DBF?

11            THE WITNESS:  I could try it if you like.  I am

12   going to the --

13            MR. KELLER:  You understand I do not want you to

14   import it, but just simply open it.

15            THE WITNESS:  Sure.  I will open up the copy from

16   my CDAD.  I'm going into Microsoft Excel from my Win 95

17   Desktop.  I will select File Open.  I will go to the CDAD

18   directory.  Automatically, because it is not an Excel file

19   type, I will go ahead and select file types for all files in

20   that subdirectory.

21            Which DBF would you like me to open up?

22            MR. KNOWLES-KELLETT:  Actually, let's go to

23   CUST05, if you would.

24            THE WITNESS:  CUST05.  I will double click on it,

25   and it does come up.

1          MR. KNOWLES-KELLETT:  Okay.

2          MR. KELLER:  Which exhibit would that correspond

3    to, assuming without conceding that these are accurate?

4          MR. KNOWLES-KELLETT:  CUST05.DBF.  285.

5          MR. KELLER:  285.

6          MR. KNOWLES-KELLETT:  I am sorry.

7                         CROSS-EXAMINATION

8          BY MR. KNOWLES-KELLETT:

9          Q     Could I ask you to look at the exhibit?  First I

10   would like to ask you a couple background questions,

11   foundational questions.

12         Now, the files zipped together, they were DBF

13   files, I believe you testified.  Is that correct?

14         A     Yes.

15         Q     Okay.  DBF files.  I think you testified that to

16   open them you need a program such as FoxPro?

17         A     Sometimes, yes.

18         Q     Okay.  In certain instances, though, you can view

19   the data contents with other files such as a spreadsheet

20   file like Excel and Paradox.  Is that correct?

21         A     I'm sorry.  Could you repeat that?

22         Q     Okay.  You can use a spreadsheet program to access

23   some DBF files.  Some are sufficiently simple that you can

24   look at them in Excel or Paradox or --

25         A     Yes.

1    Q    Okay.  Now, you have been able to unzip and open

2    what has been marked as Kay Exhibit 10, correct?

3    A    Yes.

4    Q    Okay.  I would like you to look at the file,

5    CUST05.DBF.  You can pair it to what has been marked for

6    identification as Bureau Exhibit 285.

7    A    I'm looking at page 1 of 12.

8    Q    I am not asking you to verify that the data is

9    completely accurate.  I am asking you to verify the field

10   names that you testified regarding.  If you could just check

11   the data record for Customer 8001?

12   A    Yes.  They appear to be the same.  I'm going to

13   expand the field of the name through Excel so I can read the

14   whole complete name because it appears to be truncated.  It

15   looks like it is the same, being International Refrigeration

16   Co., C-O.  The address appears to be the same.

17   Q    Going to the next page, page 2 of 12, --

18   A    Yes?

19   Q    -- I would ask you to do the same thing for each

20   page essentially.

21   A    For each page?

22   Q    Verify that --

23        MR. KELLER:  The continuation across the top.

24        THE WITNESS:  Okay.  I'm going to have to look at

25   the file, and I'm moving it over to the right so that I can

1    view this portion.  Okay.

2              The zip code looks to be the same.  The contact

3    name I'm going to expand so that I can read it.  It appears

4    to be the same.  Tele 2.  Start date appears to be the same.

5              Do you want me to go to page 3?

6              MR. KNOWLES-KELLETT:  Yes, if you would.

7              THE WITNESS:  Okay.  I'm scrolling across the

8    program.  End date.  I'm expanding the end date field so

9    that I can read it.  The year-to-date bill is the same.  The

10   receipt is the same.  The amount is the same, last balance.

11             The date I'm going to expand.  It appears the

12   same.  The LST RC amount I'm going to expand.  It appears to

13   be the same.  LIC 1 is the same.

14             Would you like me to continue to page 4?

15             MR. KNOWLES-KELLETT:  Yes, please.

16             THE WITNESS:  Page 4.  I'm going to have to expand

17   these fields for Renew 4 DAT, Base 1.  Okay.  Pagers appear

18   to be the same.  Pagers, yes, appear to be the same.

19             Would you like me to go on to the next page?

20             MR. KNOWLES-KELLETT:  Yes, please.  I would

21   appreciate it if you would just do all 12.

22             THE WITNESS:  All 12?  Okay.

23             MR. KELLER:  Should we maybe continue this off the

24   record?

25             JUDGE CHACHKIN:  We might as well go off the

1    record.

2            (Whereupon, a short recess was taken.)

3            BY MR. KNOWLES-KELLETT:

4        Q    While we took a break, you compared the 12 pages

5    in 285 to what your Excel opened of CUST05.DBF from the

6    DAD.ZIP file.  Is that correct?

7            MR. KELLER:  A correction as to one record, I

8    believe.

9            MR. KNOWLES-KELLETT:  Okay.

10       Q    The field names in the first record in 285 to what

11   you opened with Excel from the CUST05.DBF file contained in

12   DAD.ZIP.  Is that correct?

13       A    That's correct.

14       Q    Okay.  What was your findings?

15       A    The only difference I found was on page 10 of 12,

16   the field Prior B-A-L.  The print result here is T, when in

17   fact in the program the word "true" is written out.

18           MR. KELLER:  Which page was that did you say?

19           THE WITNESS:  Ten of 12.  That's the only

20   difference I see.

21           BY MR. KNOWLES-KELLETT:

22       Q    From your experience, could that be a difference

23   the way Excel opens it as compared to some other reading

24   file?

25       A    That is very possible, yes.

1          Q     Okay.  Would you say it is more likely than not

2     that it is the same data contained in that first record?

3          A     Yes.

4                MR. KNOWLES-KELLETT:  Okay.  Your Honor, I would

5     like to move again just the first record and field names

6     from WTB Exhibit 285 as an example of the data contained in

7     Kay Exhibit No. 10 so that the record reflects.

8                Right now there is a blind exhibit, and what I

9     would like to do is move that as just an example of what is

10    on there.

11               JUDGE CHACHKIN:  Any objection?

12               MR. KELLER:  No objection to that for that limited

13    purpose.

14               JUDGE CHACHKIN:  So you want me to receive Exhibit

15    285 for what limited purpose now?

16               MR. KELLER:  Just the field names in the first

17    record as Exhibit 285.

18               JUDGE CHACHKIN:  Is that right?

19               MR. KELLER:  Or Exhibit 285 as an example of the

20    type of data contained on the disk.

21               MR. KNOWLES-KELLETT:  That would be fine with me,

22    Your Honor.  I do not care.  Either one.  It might make a

23    clearer record if we receive 285 not for the truth of the

24    data, the accuracy of the data.

25               MR. KELLER:  I am not at all conceding, nor would

1   I agree.  I would object to an introduction of it in any way

2   representing that it is accurate data.

3                MR. KNOWLES-KELLETT:  That's beyond the first

4   record.

5                MR. KELLER:  Even that that is accurate.  We still

6   do not know.  I am not even conceding that the --

7                MR. KNOWLES-KELLETT:  Okay.

8                MR. KELLER:  -- data in Kay Exhibit 10 is

9   accurate.

10                MR. KNOWLES-KELLETT:  I am considering the first

11   record is an accurate copy of what is in Kay Exhibit 10.

12   The whole thing is an example of what is in Kay --

13                MR. KELLER:  I will stipulate to those two facts.

14                MR. KNOWLES-KELLETT:  Okay.

15                MR. KELLER:  I do not object to the introduction

16   of the exhibit for the limited purpose of providing useful

17   background for the stipulation.

18                MR. KNOWLES-KELLETT:  Okay.

19                MR. KELLER:  I do not think you need the exhibit

20   in evidence to do that, though.

21                MR. KNOWLES-KELLETT:  I think it makes a better

22   record if you will receive it, Your Honor.

23                JUDGE CHACHKIN:  Do you have any objection for

24   that limited purpose?

25                MR. KELLER:  No.

1          JUDGE CHACHKIN:  All right.  Your Exhibit 285,

2    which I previously rejected, will be received for the

3    limited purposes stated on the record.

4                                    (The document referred to,

5                                    having been previously marked

6                                    for identification as WTB

7                                    Exhibit No. 285, was received

8                                    in evidence.)

9          BY MR. KNOWLES-KELLETT:

10         Q     Now, are you familiar with a program called Q&A?

11         A     Heard of it.  Have I actually programmed with it?

12   No, but yes.

13         Q     Okay.  Have you programmed in anything?  I think

14   you said you programmed in FoxPro.  Is that correct?

15         A     Yes.

16         Q     Now, is it correct that FoxPro would work directly

17   with DBF files?

18         A     Yes.

19         Q     Okay.  I think you said with Excel, sometimes it

20   works with DBF files that are imported and put in another

21   format?

22         A     Yes.  They can be manipulated several ways.

23         Q     Would it be possible that Q&A works with DBF files

24   imported and put in a different format?

25         A     Yes, it would be possible.

1    Q    Okay.  Now, you testified earlier, and you can

2    correct me if I am wrong, that you used the term

3    "transparent" to the user.  Could you please explain what

4    you meant by transparent?

5    A    If I'm a programmer and I've developed a custom

6    package, I know about the codes that are involved and the

7    functions of how something works and the whole program.

8         The generic user that uses the program may not

9    necessarily -- like, for example, the administrative

10   assistant may not know all the idiosyncracies of how the

11   program works.  They just know that there is a file out

12   there called say Accounting, and that's the file that they

13   have to get to.

14        That's what I meant by transparent.  I meant that

15   they don't know how everything works down to the nuts and

16   bolts.

17   Q    Okay.  Let me see if I have this straight.  Maybe

18   the best way is to give an example.

19   A    Uh-huh.

20   Q    We have a salesman on the floor who wants to

21   access customer records.  He could go and click on an icon

22   that says something like Customer Records, and it would pull

23   up a FoxPro or some other program that would then let him

24   query in multiple DBF files without him having to know the

25   intricacies of all the DBF files or account files or FoxPro

1    or whatever.  Is that correct?

2         A    Yes, and that's what I was referring to as

3    transparent.

4         Q    The programmer would create this sort of window

5    into the files for the salesman.  Is that correct?

6         A    Yes.

7         Q    Okay.  Is that a complicated process?  Can it be a

8    complicated process?

9         A    Typically, no.  Typically, no.

10        Q    Okay.  Can it be?

11        A    It can be, yes.

12        Q    Now, you testified, and I think you were looking

13   at Exhibit 281, but it does not really matter which exhibit.

14   You were testifying that if the last bill date or some date

15   in there was 3-8-95 that it had to have been copied after

16   3-8-95.  At least that is --

17             MR. KELLER:  The testimony was on or after.

18             MR. KNOWLES-KELLETT:  On or after.

19             BY MR. KNOWLES-KELLETT:

20        Q    Do you know that for a fact?

21        A    I do not know that for a fact.

22        Q    Okay.  If the program, the window into this thing,

23   allowed you to manually enter those dates, is it correct

24   that you could enter a date in the future?

25        A    Yes, if you can manually do it.  Yes.

1    Q    Okay.  You have no way of telling from these files

2    whether or not that window let you manually do it or

3    automatically set the date?

4    A    No, I do not.

5    Q    But if you had a large accounting program, such as

6    this appears to be, is it correct that more likely than not

7    that if all the latest dates are that date and nothing

8    further that it was copied on that date?

9    A    When you say copied --

10    Q    The last time it was modified was that date.

11    A    The last modification date, yes.

12    Q    Okay.  But you cannot say for sure?

13    A    No, I cannot.

14    MR. KNOWLES-KELLETT:  Okay.  No further questions,

15    Your Honor.

16    JUDGE CHACHKIN:  Any redirect?

17    MR. KELLER:  Very brief redirect and then possibly

18    a matter that I will raise.

19    REDIRECT EXAMINATION

20    BY MR. KELLER:

21    Q    Mr. Johnson, you initially hesitated when we

22    brought up the possibility of opening a DBF file in Excel,

23    correct?

24    A    Yes, I did.

25    Q    Because you are not sure that it always works,

1    correct?

2         A    That is correct.

3         Q    Now, is it not true that when you build a database

4    application that in addition to collecting and storing and

5    updating these various fields for various records that there

6    is also, in a typical database application, there are in the

7    background various links that relate one field to another?

8         A    Yes.

9         Q    And that sometimes these involve calculations?    Is

10   it true that sometimes certain fields are updated or

11   manipulated or recalculated based on values that are updated

12   or recalculated in other related fields?

13        A    Yes.

14        Q    Is it not true that if, therefore, you open a data

15   file in an application other than the one it was designed

16   under that all of those relations may not be transferred?

17        A    That is correct.

18        Q    Therefore, you cannot be assured that you are

19   looking at in all cases an absolutely accurate

20   representation of what is in the original database package?

21        A    That's correct.

22             MR. KELLER:    Your Honor, in light of something

23   that Mr. Kellett raised in his cross-examination regarding

24   the updated base, I would like to beg your indulgence.    If I

25   could take another -- I am going to estimate less than a ten

1    minute break to ask the witness to perform another

2    examination for me and then come back on the record?

3              This has to do with Mr. Kellett's questioning

4    regarding whether dates could have been entered afterwards.

5    It is a one or two question line that is related to the

6    dates and when these files may or may not have been copied,

7    et cetera, but it is a process that I do not think it would

8    serve any purpose for me to ask him to do on the record.  I

9    am not even sure he can do it unless I consult with him

10   first.

11             JUDGE CHACHKIN:  All right.  We will go off the

12   record.

13             (Whereupon, a short recess was taken.)

14             JUDGE CHACHKIN:  Back on the record.

15             MR. KELLER:  Subject to check, will the Bureau

16   stipulate that there is no date in any of the date-related

17   fields in the data produced by Mr. Cordaro later than

18   March 8, 1995?

19             MR. KNOWLES-KELLETT:  Yes.

20             MR. KELLER:  Then I do not need this witness any

21   further.

22             JUDGE CHACHKIN:  All right.  Do you have any

23   questions of this witness resulting from questions by Mr.

24   Keller on redirect?

25             MR. KNOWLES-KELLETT:  No further questions, Your

1    Honor.

2         JUDGE CHACHKIN:  You are excused.  Thank you very

3    much.

4         THE WITNESS:  Thank you.  Do you want me to delete

5    this file off of here?

6         MR. KELLER:  Yes, you better.  In fact, delete it

7    and then do whatever security codes that may or may not be

8    to clear the files where they came from.

9         (Witness excused.)

10        MR. KELLER:  Are we still on the record?

11        JUDGE CHACHKIN:  Yes, we are on the record.

12        MR. KELLER:  Perhaps it would be appropriate at

13   this time to address matters of scheduling for tomorrow.  We

14   do have now a plethora of witnesses arriving all at once.

15        I believe tomorrow one of the things that had been

16   scheduled was for the Bureau to interview Mr. Cohen at

17   9:00 a.m.  We would like to maintain that schedule for the

18   fact that Mr. Cohen and Mr. Hanno, the two witnesses

19   scheduled to testify tomorrow, are on rather tight flight

20   schedules to get back out of town, so my preference would be

21   to proceed with the interview of Mr. Cohen at 9:00 a.m.  We

22   will put him on, followed by --

23        JUDGE CHACHKIN:  Could he be here earlier?  Could

24   he be here earlier?

25        MR. KELLER:  Possibly, but not too much earlier.

1           MR. SHAINIS:  He is coming from California.

2           MR. KELLER:  Do you want to say 8:30 a.m.?

3           JUDGE CHACHKIN:  Is he coming in tonight?

4           MR. KELLER:  Yes.

5           MR. SHAINIS:  Yes.

6           JUDGE CHACHKIN:  Well, if he could be interviewed

7    at 8:00 a.m., then we could start at 9:00 a.m.

8           MR. KELLER:  What do you think?  Do you want to do

9    that?

10          JUDGE CHACHKIN:  Or 8:30 a.m.  We could start at

11   9:30 a.m.  I mean, if you want to make sure.

12          MR. KELLER:  Let's say 8:30 a.m. --

13          JUDGE CHACHKIN:  All right.

14          MR. KELLER:  -- just because of the time

15   difference.

16          JUDGE CHACHKIN:  You have no problem with that?

17          MR. KNOWLES-KELLETT:  That is fine, Your Honor.

18          MR. KELLER:  All right.  Do you want to do that

19   here?

20          JUDGE CHACHKIN:  All right.  We will start at

21   9:30 a.m. tomorrow.

22          MR. KELLER:  Do you want to do that here?

23          MR. KNOWLES-KELLETT:  Here in the witness room.

24          MR. KELLER:  Okay.  So at 8:30 a.m. tomorrow you

25   would proceed with your interview of Mr. Cohen, and then we

1   would proceed with his testimony at 9:30 a.m. plus or minus.

2           We would propose to proceed immediately thereafter

3   with the testimony of Mr. Hanno, and then that leaves the

4   question of when we arrange for the interview of the

5   Marshalls.

6           JUDGE CHACHKIN:  French could also testify.

7           MR. KELLER:  French.  We have no problem with

8   that.  In fact, I discussed this with Mr. Schauble last

9   night, and he felt strongly that should we finish with Mr.

10  Hanno with sufficient time before lunch, Mr. French should

11  be advanced in the schedule.  I have no objection to that.

12          MR. SCHAUBLE:  Yes, Your Honor.  We could get as

13  many witnesses as we could get up and done in the day.

14          MR. KELLER:  We would attempt to accomplish the

15  interview of Mr. Cohen, the testimony of Mr. Cohen, the

16  testimony of Mr. Hanno and the testimony of Mr. French

17  before lunch, if at all possible.  I believe that is not an

18  undoable schedule.

19          JUDGE CHACHKIN:  And then we would proceed with

20  Mr. Kay?  Is that the plan?

21          MR. KELLER:  If Mr. Kay is available, we would

22  then proceed with the cross-examination of Mr. Kay.

23          JUDGE CHACHKIN:  Right.

24          MR. KELLER:  I have just tried to check with him

25  to find out.  I was unable to reach him just now.

1           JUDGE CHACHKIN: And what will you do about the

2 Marshalls?

3           MR. KELLER: Then we have to arrange time for the

4 interview of the Marshalls, which we could either do that

5 over the lunch break, or we could do it after the

6 cross-examination of Mr. Kay.

7           JUDGE CHACHKIN: Well, we will see how things go

8 with Mr. Kay. I guess that is the determining factor. We

9 will make room, two hours, for you.

10           MR. KELLER: I guess we can discuss this. My

11 preference would be if Mr. Kay is going to be in town for

12 the duration regardless, it might make more sense to proceed

13 with the interview of the Marshalls and then their testimony

14 so that they are not sitting around, you know, waiting to

15 get on a plane back to California and then move to the

16 cross-examination of Mr. Kay.

17           JUDGE CHACHKIN: All right. Any way you want to

18 do it.

19           Do you have any problem with that?

20           MR. SCHAUBLE: I think we will try to see how it

21 goes to a certain extent, Your Honor, but we will

22 certainly --

23           MR. KELLER: Okay.

24           MR. SCHAUBLE: -- work with them.

25           JUDGE CHACHKIN: All right. Now what we are going

1    to do is have the admission session with respect to the

2    exhibits.  I think we should put Mr. Shainis to work right

3    now --

4              MR. SHAINIS:  Fine, Your Honor.

5              JUDGE CHACHKIN:  -- in at least identifying it.

6    Then this afternoon we could take up the offering and save

7    some time.

8              (Whereupon, at 11:18 a.m. the hearing was

9    adjourned, to reconvene at 9:30 a.m. on Thursday,

10   January 14, 1999.)

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1          MR. SHAINIS:  Your Honor, I would like to ask for

2     identification as Kay Exhibit No. 11, which has been

3     exchanged with everyone, and including the cover sheet.  Not

4     including the cover sheet, it is 24 Bates stamped pages, I

5     believe.

6          I would ask that it be identified, Your Honor.

7          JUDGE CHACHKIN:  What is 11?

8          MR. SHAINIS:  It starts out with information

9     concerning the Northridge earthquake.

10          JUDGE CHACHKIN:  All right.  The document

11     described by counsel --

12          MR. SHAINIS:  Well, let me describe it a little

13     bit further than that.  It is Northridge earthquake, as well

14     as assistance Mr. Kay has received from the Federal

15     Government as a result of the earthquake.

16          JUDGE CHACHKIN:  All right.  The 24 page document

17     described by counsel will be marked for identification as

18     Kay Exhibit 11.

19                              (The document referred to was

20                              marked for identification as

21                              Kay Exhibit No. 11.)

22          MR. SHAINIS:  I ask that it be admitted into

23     evidence.

24          JUDGE CHACHKIN:  We will first identify them.

25          MR. SHAINIS:  All right.

1          JUDGE CHACHKIN:  Then we will take them one by one

2     and see if there are any objections.

3          MR. SHAINIS:  Next will be Kay Exhibit No. 12.

4     This is, not including the cover sheet, a two page exhibit.

5          JUDGE CHACHKIN:  What does it consist of?

6          MR. SHAINIS:  It is a letter from Mr. Kay to an

7     individual at the U.S. Forest Service.

8          JUDGE CHACHKIN:  Dated September 5, 1992?  The

9     letter is dated September 5, 1992?

10          MR. SHAINIS:  Yes, Your Honor.

11          JUDGE CHACHKIN:  All right.  The document

12     described is marked for identification as Kay Exhibit 12.

13                              (The document referred to was

14                              marked for identification as

15                              Kay Exhibit No. 12.)

16          MR. SHAINIS:  Next, Your Honor, I would like to

17     have identified as Kay Exhibit 13, which are a number of

18     licenses, as well as invoices, concerning forestry fees.

19     The document is 17 pages in length.

20          JUDGE CHACHKIN:  The document will be so marked.

21                              (The document referred to was

22                              marked for identification as

23                              Kay Exhibit No. 13.)

24          MR. SHAINIS:  I would like next to have identified

25     as Kay Exhibit 14.  This is a seven page document.  It is

1    dealing with a special use application.  I believe this was

2    provided to the Forest Service.

3                    JUDGE CHACHKIN:  Is this relating to Kay's site at

4    Santiago Peak?

5                    MR. SHAINIS:  Yes, Your Honor.

6                    JUDGE CHACHKIN:  The document will be so marked.

7                                        (The document referred to was

8                                        marked for identification as

9                                        Kay Exhibit No. 14.)

10                   MR. SHAINIS:  I am going through the document to

11   make sure it is only Santiago Peak, but I believe that is

12   the case.  Yes.

13                   Next I would like to have identified as Kay

14   Exhibit 15, and this is a three page letter from the

15   Atchinson, Topeka & Santa Fee Railway Company for use at the

16   Cleveland National Forest, and it is --

17                   JUDGE CHACHKIN:  Go ahead.  I am sorry.

18                   MR. SHAINIS:  It is dated January 2, 1987, dealing

19   with the Forest Service.  It is addressed to the Secretary,

20   Federal Communications Commission.

21                   JUDGE CHACHKIN:  The document will be so marked.

22                                        (The document referred to was

23                                        marked for identification as

24                                        Kay Exhibit No. 15.)

25                   MR. SHAINIS:  Mr. Kay is copied on that document.

1          Next I would like to have identified as Kay

2    Exhibit 16.  It is a two page document or two page exhibit

3    rather with two documents from the Forest Service.  The

4    first document is a letter dated January 28, 1992.  The

5    second one is dated April 2, 1993.

6          JUDGE CHACHKIN:  The document will be so marked.

7          MR. SHAINIS:  Thank you.

8                              (The document referred to was

9                              marked for identification as

10                             Kay Exhibit No. 16.)

11         MR. SHAINIS:  Next I would like to have identified

12   as Kay Exhibit 17.  It is a 12 page exhibit, and it is

13   dealing with a special use permit.  I am looking for a date.

14   It is December 5, 1985.

15         JUDGE CHACHKIN:  All right.  The document will be

16   so marked.

17                             (The document referred to was

18                             marked for identification as

19                             Kay Exhibit No. 17.)

20         MR. SHAINIS:  Next I would like to have identified

21   as Kay Exhibit 18.  It is a letter from the Forest Service

22   dated August 22, 1988, addressed to James Kay.

23         JUDGE CHACHKIN:  The document will be so marked.

24   //

25   //

1          (The document referred to was

2          marked for identification as

3          Kay Exhibit No. 18.)

4          MR. SHAINIS:  Next I would like identified Kay

5    Exhibit 19.  This is a 22 page document dealing with the

6    Forest Service permit on Sierra Peak.

7          JUDGE CHACHKIN:  The document -- Go ahead.

8          MR. SHAINIS:  The first page is a letter dated

9    January 2, 1993.

10         JUDGE CHACHKIN:  The document will be so marked.

11         (The document referred to was

12         marked for identification as

13         Kay Exhibit No. 19.)

14         MR. SHAINIS:  Next I would like identified Kay

15   Exhibit 20, which is a seven page document.  The first sheet

16   is a letter, but does not bear a date, does not appear to be

17   dated, to the U.S. Forest Service.  I am sorry.  It is

18   dated.  April 22, 1992.

19         JUDGE CHACHKIN:  The document will be so marked.

20         (The document referred to was

21         marked for identification as

22         Kay Exhibit No. 20.)

23         MR. SHAINIS:  Next I would like identified as Kay

24   Exhibit 21.  This is a 28 page document.  The first page of

25   the document is dated March 12, 1988, and it is a request

1    for frequency coordination.

2              JUDGE CHACHKIN:  The document will be so marked.

3                        (The document referred to was

4                        marked for identification as

5                        Kay Exhibit No. 21.)

6         MR. SHAINIS:  Next I would like identified as Kay

7    Exhibit 22.  This is a 15 page document.  The first sheet --

8         MR. KELLER:  What number are we on?

9         MR. SHAINIS:  We are on --

10        JUDGE CHACHKIN:  22.

11        MR. SHAINIS:  -- 22.  It is an FCC application,

12   Your Honor, and it is dated November 10, 1986.

13        JUDGE CHACHKIN:  All right.  The --

14        MR. SCHAUBLE:  Your Honor, I would just note that

15   the following pages appear to be a series of invoices.

16        JUDGE CHACHKIN:  All right.  Relating to Terry D.

17   Parks, I assume?

18        MR. SCHAUBLE:  Your Honor, I think this is Ronald

19   Hawley.

20        MR. SHAINIS:  Ronald Hawley.

21        JUDGE CHACHKIN:  We are talking about 22?  Yes,

22   22.  All right.  Relating to Ronald Hawley.  All right.

23        MR. KELLER:  It is an application plus service

24   invoices.

25        JUDGE CHACHKIN:  All right.  The document will be

1    so marked as Kay Exhibit 22.

2                                    (The document referred to was

3                                    marked for identification as

4                                    Kay Exhibit No. 22.)

5         MR. SHAINIS:  Next I would like identified, Your

6    Honor, as Kay Exhibit No. 23.  It is a 14 page document, and

7    the first sheet is a repeater service worksheet.

8         JUDGE CHACHKIN:  The document will be so marked.

9         MR. SHAINIS:  Thank you.

10                                   (The document referred to was

11                                   marked for identification as

12                                   Kay Exhibit No. 23.)

13        MR. SHAINIS:  I would like to have identified,

14    Your Honor, as Kay Exhibit No. 24.  It is a four page

15    exhibit.  The first page is a letter addressed to Lucky's

16    Two-Way Radio dated November 3, 1986.  The letter is

17    executing a lease, and then the next page is the lease

18    itself.

19        JUDGE CHACHKIN:  The document will be so marked.

20        MR. SHAINIS:  Thank you.

21                                   (The document referred to was

22                                   marked for identification as

23                                   Kay Exhibit No. 24.)

24        MR. SHAINIS:  I would like to have identified as

25    Kay Exhibit 25, which is an eight page document.  It is a

1       site lease agreement finalized on February 26, 1990.

2                    JUDGE CHACHKIN:  The document will be so marked.

3                                      (The document referred to was

4                                      marked for identification as

5                                      Kay Exhibit No. 25.)

6                    MR. SHAINIS:  I would next like to have identified

7       as Kay Exhibit 26.  This is an eight page document, and the

8       first page is a letter from the Forest Service to James A.

9       Kay dated February 11, 1988.

10                   JUDGE CHACHKIN:  The document will be so marked.

11                                     (The document referred to was

12                                     marked for identification as

13                                     Kay Exhibit No. 26.)

14                   MR. SHAINIS:  I would next like identified as Kay

15      Exhibit 27, which is a 14 page document.  The first page is

16      a lease agreement dated November 7, 1987.

17                   JUDGE CHACHKIN:  How many pages is the document?

18                   MR. SHAINIS:  The document is 14 pages.

19                   JUDGE CHACHKIN:  All right.  The document will be

20      so marked.

21                                     (The document referred to was

22                                     marked for identification as

23                                     Kay Exhibit No. 27.)

24                   MR. SHAINIS:  Next I would like identified as Kay

25      Exhibit 28, which is a 16 page document.  The first page is

1    a lease agreement dated November, I believe.  It is

2    handwriting.  It is either November 24 or the 29th, 1987.

3           JUDGE CHACHKIN:  The document will be so marked.

4                              (The document referred to was

5                              marked for identification as

6                              Kay Exhibit No. 28.)

7           MR. SHAINIS:  Next I would like identified as Kay

8    Exhibit 29, and this is a lease.  The first page is the

9    first page of a lease agreement dated May 11, 1985.

10           JUDGE CHACHKIN:  Eight pages?

11           MR. SHAINIS:  The document is eight pages.

12           JUDGE CHACHKIN:  The document will be so marked.

13                              (The document referred to was

14                              marked for identification as

15                              Kay Exhibit No. 29.)

16           MR. SHAINIS:  Next I would like identified as Kay

17    Exhibit 30.  This is a nine page exhibit.  The first page is

18    a letter dated September 29, 1992, addressed to Mr. Kay from

19    the Forest Service.

20           JUDGE CHACHKIN:  The document will be so marked.

21                              (The document referred to was

22                              marked for identification as

23                              Kay Exhibit No. 30.)

24           MR. SHAINIS:  I would next like identified as Kay

25    Exhibit 31.  This is a nine page document.  The first page

1    is a programming worksheet, and it is dated November 5,

2    1993.

3                    JUDGE CHACHKIN:  The document will be so marked.

4                    MR. SHAINIS:  Thank you.

5                                      (The document referred to was

6                                      marked for identification as

7                                      Kay Exhibit No. 31.)

8                    MR. SHAINIS:  If I could just have a moment, Your

9    Honor?  I am going to another folder.

10                   JUDGE CHACHKIN:  All right.

11                   (Pause.)

12                   MR. SHAINIS:  Next I would like identified, Your

13   Honor, as Kay Exhibit No. 32.  This is a number of purchase

14   orders for repeaters.  The exhibit contains 61 pages.  I

15   would like it to be identified.

16                   JUDGE CHACHKIN:  Sixty-one?

17                   MR. SHAINIS:  Yes, Your Honor.

18                   JUDGE CHACHKIN:  All right.

19                   MR. SHAINIS:  Sixty-one pages.

20                   JUDGE CHACHKIN:  The document will be so marked.

21                                     (The document referred to was

22                                     marked for identification as

23                                     Kay Exhibit No. 32.)

24                   MR. SHAINIS:  I would next like identified as Kay

25   Exhibit 33.  This is a number of purchase orders for 800

1   megahertz repeaters.   The number of pages is 58.

2                 JUDGE CHACHKIN:   The document will be so marked.

3                                 (The document referred to was

4                                 marked for identification as

5                                 Kay Exhibit No. 33.)

6           MR. SHAINIS:   I would next like identified as Kay

7   Exhibit 34.   These consist of FCC loading cards.   The number

8   of pages is 122.

9                 JUDGE CHACHKIN:   One hundred twenty-two?

10          MR. SHAINIS:   Yes, Your Honor.

11          JUDGE CHACHKIN:   The document will be so marked.

12          MR. SHAINIS:   Thank you.

13                                (The document referred to was

14                                marked for identification as

15                                Kay Exhibit No. 34.)

16          MR. SHAINIS:   I would ask to have identified as

17  Kay Exhibit 35.   These are checks and check stubs.   This is

18  a five page exhibit.

19                JUDGE CHACHKIN:   What does it relate to?

20          MR. SHAINIS:   Carla Pfeifer, Your Honor.

21          JUDGE CHACHKIN:   All right.   The document is so

22  marked.

23                                (The document referred to was

24                                marked for identification as

25                                Kay Exhibit No. 35.)

1    MR. SHAINIS:  Next I would like identified as Kay

2    Exhibit 36.  This consists of 15 pages, Your Honor.

3         Just one moment, Your Honor.

4         MR. KELLER:  What number is it?

5         MR. SHAINIS:  It is 36.

6         (Pause.)

7         MR. SHAINIS:  Your Honor, we are going to identify

8    this exhibit.  It is notes plus checks plus I believe

9    correspondence to an investigatory unit of the Capital Bank

10   of California.  I do not know if we are ever going to offer

11   this.

12        JUDGE CHACHKIN:  This is 36, you say?

13        MR. SHAINIS:  Yes, Your Honor.

14        JUDGE CHACHKIN:  All right.  The document will be

15   so marked.

16                                    (The document referred to was

17                                    marked for identification as

18                                    Kay Exhibit No. 36.)

19        MR. KNOWLES-KELLETT:  Let the record reflect it is

20   relating to Jensen.  Is that correct?

21        MR. KELLER:  It is relating to Roy Jensen, yes.

22        Now, 37 is already in.

23        MR. SHAINIS:  Your Honor, Kay Exhibit 37 --

24        JUDGE CHACHKIN:  Just identify the ones which are

25   not already in the record.

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1          MR. SHAINIS:  All right.

2          MR. KNOWLES-KELLETT:  Would it be okay, Your

3   Honor, if they just reserved the number?

4          MR. KELLER:  Yes.  We will just reserve the number

5   of Exhibit 37 and just state that what was previously

6   exchanged as Kay 37 is now already admitted as Kay Exhibit

7   1.

8          JUDGE CHACHKIN:  All right.  You can say that.

9   That is fine.

10          MR. SHAINIS:  All right.  Your Honor, I would like

11   to have identified as Kay Exhibit No. 38 --

12          JUDGE CHACHKIN:  What about 37?

13          MR. SHAINIS:  37 we are just reserving.

14          MR. KELLER:  What is in 37 has already been

15   admitted as Kay Exhibit 1.

16          JUDGE CHACHKIN:  Why do we not just keep with the

17   numbers and make the next 37, unless that is going to

18   complicate things.

19          MR. KELLER:  Well, we have a whole series of

20   documents that are already labeled.

21          MR. SCHAUBLE:  That is all right.  They have been

22   exchanged.

23          JUDGE CHACHKIN:  You only have 12 more to go.  I

24   think it would be more --

25          MR. SHAINIS:  All right.  Your Honor, Kay Exhibit

1    37 --

2              MR. KELLER:  Okay.

3              MR. SHAINIS:  Bear with us a moment, Your Honor.

4              JUDGE CHACHKIN:  Sure.  Is this the only one, or

5    are there going to be others?

6              MR. KELLER:  There are just a few.  There are just

7    a few that are like that.  I think it would be easier just

8    to have a couple of gaps.

9              JUDGE CHACHKIN:  All right.  We will do it that

10   way.

11             MR. SHAINIS:  All right.  Kay Exhibit 38 then,

12   Your Honor, --

13             JUDGE CHACHKIN:  Yes.

14             MR. SHAINIS:  -- is a two page document, and it is

15   a fictitious business name statement dealing with Mr.

16   Jensen.

17             JUDGE CHACHKIN:  The document will be marked for

18   identification as Kay Exhibit 38.

19             MR. SHAINIS:  Thank you.

20                                  (The document referred to was

21                                  marked for identification as

22                                  Kay Exhibit No. 38.)

23             MR. SHAINIS:  Next I would like identified --

24             MR. KELLER:  Your Honor, Kay Exhibit No. 39, which

25   was previously exchanged, has already been admitted into

1    evidence as WTB Exhibit No. 351.  I guess we could go ahead

2    and identify it here, but keep the numbering sequence.

3         MR. SHAINIS:  Yes.  We will identify it.  Kay

4    Exhibit 39.

5         MR. KNOWLES-KELLETT:  Do you want the record to

6    reflect that it is a letter from --

7         MR. KELLER:  Yes.

8         MR. SHAINIS:  Yes.  I am sorry.

9         MR. KELLER:  It is a letter on Brown and

10   Schwaninger letterhead dated September 4, 1992, addressed to

11   Ralph Haller, Chief, Private Radio Bureau.

12        JUDGE CHACHKIN:  All right.

13                              (The document referred to was

14                              marked for identification as

15                              Kay Exhibit No. 39.)

16        MR. KELLER:  I suppose consistent with that, we

17   will identify as Exhibit No. 37 a copy of what is already in

18   evidence as Kay Exhibit 1, although we will keep the number,

19   which is an ALJ ruling dated October 7, 1992, of the

20   California Unemployment Insurance Board of Appeals relating

21   to Roy Jensen.  That way the number is reserved.

22        JUDGE CHACHKIN:  All right.

23                              (The document referred to was

24                              marked for identification as

25                              Kay Exhibit No. 37.)

1          MR. SHAINIS:  Your Honor, I would like to have

2     identified, and this has already been admitted as another

3     number, but we will identify it so that we will not have any

4     gaps in the record, as Kay Exhibit 40.

5          This is a four page exhibit.  It is the decision

6     of Administrative Law Judge J. S. Berger dealing with Mr.

7     Hessman.

8          JUDGE CHACHKIN:  What has it been received as

9     previously?

10          MR. KELLER:  I will tell you in just a second,

11     Your Honor.  Kay Exhibit 7.

12          MR. SCHAUBLE:  Just an inquiry.  40 and 42 you are

13     not offering at all?  40 and 41 you are not identifying at

14     all?

15          MR. SHAINIS:  I just identified 40.

16          MR. SCHAUBLE:  So this is 40, the January 21?

17          MR. SHAINIS:  Right.  I just identified 40.

18          MR. SCHAUBLE:  The index says 42.

19          MR. SHAINIS:  Does it?  I have not been going by

20     the index.  Sorry.

21          MR. SCHAUBLE:  Okay.

22          MR. KELLER:  There is a glitch somewhere in 41,

23     42, 43 that I have not figured out yet.  That is probably

24     what the problem is.

25          JUDGE CHACHKIN:  This is the same as what did you

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1    say, 40?

2               MR. KELLER:  Would you re-identify 40?

3               MR. SHAINIS:  Yes.  40, Your Honor, is a decision

4    of the Administrative Law Judge in the California

5    Unemployment Insurance Appeals Board.  It is a four page

6    exhibit dealing with Mr. Hessman.

7               JUDGE CHACHKIN:  That is 40?

8               MR. SHAINIS:  Yes.

9               MR. SCHAUBLE:  Your Honor, it is in my index

10   labeled as No. 42.

11              JUDGE CHACHKIN:  All right.

12              MR. KELLER:  You are right.

13              JUDGE CHACHKIN:  All right.  That has previously

14   been --

15              MR. SHAINIS:  It has already been admitted.

16              JUDGE CHACHKIN:  As what?

17              MR. SHAINIS:  As Kay Exhibit 7.

18              JUDGE CHACHKIN:  All right.

19                             (The document referred to was

20                            marked for identification as

21                            Kay Exhibit No. 40.)

22              MR. SHAINIS:  I would like to have identified as

23   Kay Exhibit 41, and it is a three page document.  It is a

24   request of NABER dealing with Vince Cordaro.

25              JUDGE CHACHKIN:  The document will be so marked.